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12 *Attorney for Petitioner Ray Antonio Azcarate

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA
15

16 Ray Antonio Azcarate,
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18 Petitioner,
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20 v.
21 Brian Williams, et al.,
22 Respondents.

Case No. 2:17-cv-02190-RFB-EJY

**Unopposed Motion for Extension
of Time to File Reply to Answer to
First Amended Petition**

(First Request)

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Petitioner Ray Azcarate, by and through counsel, C.B. Kirschner, Assistant Federal Public Defender, moves this Court for an extension of time of sixty (60) days from December 28, 2020, to and including February 26, 2021, to file the Reply to Respondents' Answer to First Amended Petition.

POINTS AND AUTHORITIES

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2 1. On or about November 8, 2007, Ray Antonio Azcarate was sentenced to
3 two, consecutive sentences of life imprisonment without the possibility of parole,
4 following his conviction for murder with use of a deadly weapon. On August 4, 2017,
5 he filed a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a
6 Person in State Custody (Not Sentenced to Death). ECF No. 1-1.

7 2. This Court appointed the Office of the Federal Public Defender as
8 counsel for Mr. Azcarate and granted leave for counsel to file an amended petition.
9 ECF No. 6. Counsel filed the First Amended Petition on May 9, 2018. ECF No. 14.
10 Respondents filed an Answer to the Petition on November 13, 2020. ECF No. 50.

11 3. Petitioner's Reply to the Answer is currently due December 28, 2020.
12 Mr. Azcarate now requests an additional sixty (60) days, up to and including
13 February 26, 2021, to file the Reply. This is the first request for an extension of
14 time.

15 4. The additional period of time is necessary in order to effectively
16 represent Mr. Azcarate. This motion is filed in the interests of justice and not for
17 the purposes of unnecessary delay.

18 5. Counsel's busy schedule necessitates this request. On November 23,
19 2020, counsel filed a Third Amended Petition for Writ of Habeas Corpus in *Miller v.*
20 *Olsen*, case no. 3:19-cv-00673-MMD-WGC. On November 24, 2020, counsel filed an
21 Emergency Motion for Release Pending Decision Due to Risks of Infection by
22 COVID-19 in *Barron-Aguilar v. Olsen*, case no. 3:17-cv-00548-MMD-CLB. Counsel
23 also filed an Opposition to Motion to Dismiss on December 7th, and Rely in Support
24 of Emergency Motion for Release on December 14th in that same case. On November
25 25, 2020 counsel filed a Petition for Rehearing with the Ninth Circuit in *Tiffany v.*
26 *LeGrand*, case no. 19-15796. On December 1, 2020, counsel filed a First Amended
27 Petition, and Request for Leave to File Second Amended Petition in *Patterson v.*

1 *Johnson*, case no. 2:20-cv-01614-JAD-DJA. On December 14, 2020 counsel filed a
2 Reply to Answer to First Amended Petition in *Gonzalas v. Williams*, case no. 2:17-
3 cv-01653-RFB-EJY. And on December 21, 2020 counsel filed a Reply to Answer to
4 First Amended Petition in *Dryden v. Williams*, case no. 2:17-cv-00704-JAD-NJK.
5 Almost all of those deadlines had previously been extended at least once, or were
6 otherwise time sensitive (e.g. the Emergency Motion for Release was based on an
7 outbreak of COVID-19 in the prison where Mr. Barron-Aguilar is currently being
8 held). Counsel also has nearly a dozen other filing deadlines in the next six weeks,
9 including several that cannot be extended (including an AEDPA statutory deadline
10 in early January).

11 6. Finally, counsel's office will be closed for several days, and counsel will
12 be taking extra time off, for the upcoming holidays.

13 7. On December 21, 2020, Deputy Attorney Geordan Goebel was
14 contacted via email about this request and stated that he did not object to the
15 extension, but the lack of objection should not be construed as a waiver of any
16 procedural defenses.

17 8. For the above-stated reasons, Petitioner respectfully requests this
18 Court grant the request for an extension of time of sixty (60) days and order the
19 Reply to Respondents' Answer to First Amended Petition be filed on or before
20 February 26, 2021.
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1 Dated this 21st day of December, 2020.

2 Respectfully submitted,

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4 Rene L. Valladares
Federal Public Defender

5 /s/ CB Kirschner
6 C.B. Kirschner
7 Assistant Federal Public Defender

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10 IT IS SO ORDERED:

11 
12 UNITED STATES MAGISTRATE
13 JUDGE

14 DATED: December 21, 2020
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